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FEDERAL COMMUNICATIONS COMMISSION
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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
)
)
Cellular Priority Access for)
National Security and Emergency)
Preparedness Communications)

WT Docket No. 96-86

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**COMMENTS OF THE NATIONAL ASSOCIATION
OF STATE TELECOMMUNICATIONS DIRECTORS**

The National Association of State Telecommunications Directors ("NASTD"), by its attorneys and pursuant to Section 1.405 of the Commission's Rules, hereby submits its comments with respect to the above-referenced Petition for Rulemaking ("Petition") filed on October 19, 1995 by the National Communications System ("NCS"). In the Petition, the NCS proposes that the Commission establish a Cellular Priority Access Service ("CPAS") that would permit priority access to cellular telephone spectrum by appropriate entities responding to national security/emergency preparedness ("NS/EP") events.

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The Commission placed the NCS Petition on public notice on April 18, 1996.¹ In addition to seeking comments on the merits of the Petition, the public notice asked parties "to address whether and to what extent the issues raised in the NCS petition are related to the pending public safety rulemaking proceeding, WT Docket No. 96-86."

For the reasons set forth below, the NASTD supports the adoption of CPAS rules as proposed by NCS. Moreover, the NASTD is of the view that the promulgation of CPAS rules can and should proceed independently of the Commission's deliberations in the more broad reaching public safety rulemaking. Although the NCS Petition and the rulemaking both deal with public safety, NS/EP matters, the CPAS system proposal raises only narrow issues that are capable of early resolution regardless of the outcome of the public safety rulemaking. Accordingly, the NASTD urges the Commission to act favorably on the NCS Petition, and to initiate and conclude a rulemaking proceeding on CPAS as expeditiously as possible.

I. INTEREST OF NASTD

The NASTD is an association whose members consist of the chief telecommunications officers of all 50 state

¹ DA 96-604 (April 18, 1996).

governments. These individuals are responsible for the procurement and management of the telecommunications resources of state governments and their various agencies and institutions, and in some cases, their political subdivisions.

An important part of the duties of NASTD members involves procurement and management of telecommunications facilities and services used by law enforcement and other public safety entities that must respond to natural disasters and other emergencies affecting life and property. NASTD's members are especially concerned about the ability of public officials and employees to have ready access to telecommunications facilities and services that are of critical importance in handling emergency situations. Often, in disasters such as hurricanes or tornadoes, the wireline telecommunications facilities in the affected areas are severely damaged, requiring increased reliance on wireless technologies, such as cellular telephones. In addition, those wireline and wireless facilities that do survive a disaster often become congested. Having a system in place to prioritize access to the wireless telecommunications resources that remain in service is of vital importance to the coordination and implementation of an effective emergency response to the disaster.

II. THE NASTD SUPPORTS THE NCS PROPOSAL FOR A CPAS

The NCS has proposed a restoration priority system for cellular telephone service similar to the Telecommunications Service Priority ("TSP") rules adopted by the Commission in 1988 for wireline telecommunications services. In several important respects, however, the proposed CPAS rules differ from the TSP system. First, unlike the TSP rules which give the highest restoration priorities to the Federal government, the proposed CPAS would grant equally high priority status both to Federal and to State and local governments. This change "reflects the reality that it is local and at times, State officials who will likely be the first responders to emergency situations." Petition at 13. Second, the proposed CPAS rules would permit States to be "authorizing agents" to make critical determinations of eligibility for a priority status. Under TSP, only a Federal entity may be an authorizing agent.

Both of the changes specified above appropriately recognize the critical role that State and local governments play in responding to emergency situations. It is, in fact, the case, that State and local authorities almost always man the front lines of disaster response and take initial responsibility for assisting and evacuating the injured, searching and securing the affected area and coordinating recovery efforts. On the other hand, in some emergencies,

federal officials are not involved at all and have no need for priority access. Increasingly, wireless telecommunications technologies and services, including cellular telephone services, are becoming critical tools available to State and local authorities to coordinate emergency response entities and personnel. Accordingly, the NASTD supports the proposals advanced by the NCS Petition and the recognition in the Petition of the importance of State and local governments being equal participants with the Federal government in a priority system for cellular telephone access.

**III. THE NCS PROPOSALS SHOULD BE IMPLEMENTED
WITHOUT REGARD TO COMMISSION ACTION IN
THE BROADER PUBLIC SAFETY PROCEEDING**

The CPAS proposal is relatively restricted in scope, and, in many respects, the issues previously have been debated and resolved in the course of the Commission's adoption of the TPS rules. Therefore, the Commission should be in a position to act quickly to conclude a rulemaking proceeding and to put the CPAS rules in place.

Although the CPAS proposal obviously deals with public safety matters, there is no need to link the CPAS implementation to the broader public safety issues under review in WT Docket No. 96-86. However the Commission resolves such major public safety issues as spectrum allocation, operational issues, and interoperability requirements, there will

be little effect on the operation of the CPAS proposal. Inclusion of the CPAS issues in WT Docket No. 96-86, however, could add additional complications to that proceeding and make resolution of the important issues there more difficult. Accordingly, the NASTD urges the Commission to process the NCS Petition through to a successful conclusion apart from the Commission's efforts in WT Docket No. 96-86.

CONCLUSION

For the foregoing reasons, the NASTD supports the NCS Petition and requests the Commission to issue a Notice of Proposed Rulemaking on the subject at the earliest possible date.

Respectfully submitted,

**THE NATIONAL ASSOCIATION OF STATE
TELECOMMUNICATIONS DIRECTORS**

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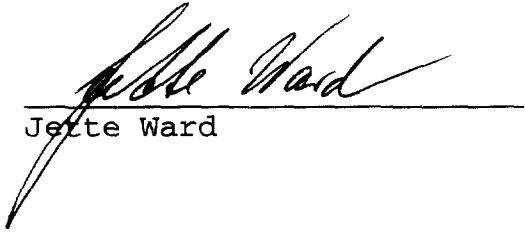
Its Attorneys

June 17, 1996

CERTIFICATE OF SERVICE

I, Jette Ward, a secretary with the law firm of Reed Smith Shaw & McClay, hereby certify that a copy of the foregoing **COMMENTS OF THE NATIONAL ASSOCIATION OF STATE TELECOMMUNICATIONS DIRECTORS** was served by United States mail, first-class, postage prepaid, on this 17th day of June, 1996, on the following persons at the addresses listed below:

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